

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

**JAMES D'CRUZ and NATIONAL
RIFLE ASSOCIATION OF
AMERICA, INC.,**

Plaintiffs,

v.

**STEVE MCCRAW, in his official
capacity as Director of the Texas
Department of Public Safety,**

Defendant.

Civil Action No. 5:10-CV-141-C

PLAINTIFFS' DESIGNATION OF EXPERT WITNESSES

TO THE HONORABLE SAM R. CUMMINGS, UNITED STATES DISTRICT JUDGE
PRESIDING:

Plaintiffs JAMES D'CRUZ and NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.,
file this their Designation of Expert Witnesses in accordance with Federal Rule of Civil Procedure
26(a)(2) and would show as follows:

Plaintiffs JAMES D'CRUZ and NATIONAL RIFLE ASSOCIATION OF AMERICA, INC.
hereby designate the following expert witnesses:

1. Charles J. Cooper
David H. Thompson
Peter A. Patterson
COOPER & KIRK, PLLC
1523 New Hampshire Ave., NW
Washington, D.C. 20036

Mr. Cooper, Mr. Thompson and Mr. Patterson are attorneys admitted in the referenced case *pro hac vice*, who are licensed to practice in Washington, D.C. and courts of other state and federal jurisdictions, and will testify regarding the subject of attorney's fees. They may testify generally regarding their experience representing clients in civil litigation matters, such as this case. They are familiar with the reasonable and necessary charges for legal services rendered in cases similar to this lawsuit, and that the attorneys' fees and charges incurred in this case are reasonable and necessary on behalf of Plaintiffs JAMES D'CRUZ and NATIONAL RIFLE ASSOCIATION OF AMERICA, INC. They are further expected to provide testimony with regard to the performance of legal services rendered on behalf of Defendant and reasonable and necessary attorneys' fees incurred in this lawsuit. Mr. Cooper, Mr. Thompson and Mr. Patterson's resumes are attached as Exhibits "A," "B," and "C." Redacted attorneys' fees statements will also be produced.

2. Fernando M. Bustos
Zane J. Vaughn
LAW OFFICES OF FERNANDO M. BUSTOS, P.C.
1001 Main Street, Suite 501
Lubbock, Texas 79401

Mr. Bustos and Mr. Vaughn are attorneys licensed to practice in state and federal courts in Texas, and will testify regarding the subject of attorney's fees. They may testify generally regarding their experience representing clients in civil litigation matters, such as this case. They are familiar with the reasonable and customary fees charged by attorneys in Lubbock, Texas, and the reasonable and necessary charges for legal services rendered in cases similar to this lawsuit, and that the attorneys' fees and charges incurred in this case are reasonable and necessary on behalf of Plaintiffs JAMES D'CRUZ and NATIONAL RIFLE ASSOCIATION OF AMERICA, INC. They are further

expected to provide testimony with regard to the performance of legal services rendered on behalf of Defendant and reasonable and necessary attorneys' fees incurred in this lawsuit. Mr. Bustos and Mr. Vaughn's resumes are attached as Exhibits "D," and "E." Redacted attorneys' fees statements will also be produced.

3. Brief Summary of Basis for Impressions and Opinions: The basis for the foregoing impressions and opinions of the above-named and/or designated expert witnesses are all the facts shown by and/or contained in:

- a. The discovery taken in this case, including any exhibits;
- b. Any expert reports;
- c. All witness statements that are produced in this case;
- d. Pleadings on file in the case;
- e. Redacted attorneys' fee statements;
- f. All documents and tangible things produced in this case, including by any other party; and
- g. Such other witnesses as developed through discovery, and any expert witness disclosed by any other party.

Respectfully submitted,

s/ Fernando M. Bustos

Fernando M. Bustos
State Bar No. 24001819
Zane J. Vaughn
State Bar No. 24042087
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P.O. Box 1980
Lubbock, TX 79408-1980
Tel: (806) 780-3976
Fax: (806) 780-3800
Email: fbustos@bustoslawfirm.com

s/ Charles J. Cooper

Charles J. Cooper*
David H. Thompson*
Peter A. Patterson*
COOPER & KIRK, PLLC
1523 New Hampshire Ave., NW
Washington, D.C. 20036
Tel: (202) 220-9600
Fax: (202) 220-9601
Email: ccooper@cooperkirk.com
*Admitted *pro hac vice*.

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

On February 15, 2011, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or *pro se* parties of record electronically or by another manner authorized by Federal rule of Civil Procedure 5 (b)(2).

s/ Fernando M. Bustos
Fernando M. Bustos

CHARLES J. COOPER
Cooper & Kirk, PLLC
1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 220-9600

EXHIBIT "A"

PROFESSIONAL EXPERIENCE

- Present** Partner, Cooper & Kirk, PLLC, Washington, D.C.
Civil litigation and federal administrative law practice.
- 1990-1996** Partner, Shaw, Pittman, Potts & Trowbridge, Washington, D.C.
Civil litigation and federal administrative law practice.
- 1988-1990** Partner, McGuire, Woods, Battle & Boothe, Washington, D.C.
Civil litigation and federal administrative law practice.
- 1985-1988** Assistant Attorney General, Office of Legal Counsel. Headed office responsible for providing formal legal opinions and informal legal advice to the President and executive branch departments and agencies, including other components of the Department of Justice.
- 1986-1988 Chairman, Domestic Policy Council's Working Group on Federalism (subcabinet level interagency working group responsible for advising the President and Cabinet members on issues relating to federal-state relations; principal author of the working group's 1986 "Report on the Status of Federalism in America" and Executive Order No. 12612 on Federalism).
- 1987-1988 Member, Policy Review Group for the National Security Council (subcabinet level interagency working group responsible for reviewing and advising the National Security Council on certain classified matters).
- 1987-1988 Member, Planning and Coordinating Group for the National Security Council (subcabinet level interagency working group responsible for reviewing and advising the National Security Council on certain classified matters).

- 1982-1985** Deputy Assistant Attorney General, Civil Rights Division. Supervised all of the Division's appellate litigation (including personally briefing and arguing selected cases) and the Division's trial litigation in the areas of public education, housing, and institutionalized persons.
- 1981-1982** Special Assistant to the Assistant Attorney General, Civil Rights Division. Assisted the Assistant Attorney General in the supervision of all facets of the Division's work, including trial and appellate litigation.
- 1979-1981** Associate, Long, Aldridge & Norman, Atlanta, Georgia. General corporate litigation practice in state and federal courts.
- 1978-1979** Law Clerk to Justice (now Chief Justice) William H. Rehnquist, United States Supreme Court, Washington, D. C.
- 1977-1978** Law Clerk to Judge Paul H. Roney, United States Court of Appeals for the Fifth (now Eleventh) Circuit, St. Petersburg, Florida.

COMMISSIONS AND ASSOCIATIONS

- 2003-Present** Member, Academe and Policy Research Senior Advisory Committee to the Department of Homeland Security
- 1998-2005** Member, Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States
- 1996-Present** Member, American Academy of Appellate Lawyers
- 1994-Present** Member, The Federalist Society (Steering Committee, Washington Lawyers Chapter); Former Chairman, Civil Rights Practice Group
- 1993-Present** Member, The American Law Institute.
- 1994-1996** Co-Chairman, Advisory Council on Self-Determination and Federalism to Governor George Allen of Virginia.
- 1991-1994** Public Member, Administrative Conference of the United States.
- 1991-1993** Commission Member, National Commission on Judicial Discipline and Removal (appointed by President Bush).
- 1990-1992** Commission Member, National Commission on Responsibilities

for Financing Postsecondary Education (appointed by President Reagan).

BAR MEMBERSHIPS

Admitted to practice before the U.S. Supreme Court; U.S. Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, Eleventh, District of Columbia, and Federal Circuits; Courts of the States of Alabama and Georgia, and the District of Columbia; and the United States Court of Federal Claims.

EDUCATIONAL BACKGROUND

Legal J.D., University of Alabama School of Law (May 1977)

Academic Performance: 2.72/3.00 (first in class)

Alabama Law Review

Editor-in-Chief (1976-1977)

Editorial Board Member (1975-1976)

Awards and Honors

John B. Knox Award (for graduate with highest academic average in section)

Order of the Coif

Dean M. Leigh Harrison Award for Scholarship

Hugo Black Scholar

Dean's Award for Service to Law School

Henderson M. Sommerville Award for Legal Writing

Omicron Delta Kappa (honorary society)

Jasons (senior honorary society)

Prelegal B.S., Finance, University of Alabama
School of Commerce & Business Administration (May 1974)
Grade Point Average: 2.26/3.00 (Finance Honors Student)

PUBLICATIONS

"Federalism and the Telephone: The Case for Preemptive Federal Deregulation in the New World of Intermodal Competition," 6 *Journal on Telecommunications & High Technology Law* 293 (2008) (with Brian Stuart Koukoutchos).

"The State of the Judiciary: A Corporate Perspective," 95 *The Georgetown Law Journal* 1107 (April 2007) (with Larry D. Thompson).

"A Perjurer in the White House?: The Constitutional Case for Perjury and Obstruction of Justice as High Crimes and Misdemeanors," *Harvard Journal of Law & Public Policy*, (Spring 1999).

"The Geography of Race in Elections: Color-Blindness and Redistricting," *The Journal of Law and Politics* (Winter 1998).

"Term Limits for Judges?," 10 *The Journal of Law and Politics*, 669 (1997).

"Constitutional Constraints on the Government," published in *Litigating Against The Government: Leveling The Playing Field* (National Legal Center for the Public Interest (1996)).

"The Republican Congress and the Constitution in Foreign and Military Affairs," 2 *Common Sense* 75 (1995) (with Prof. John McGinnis).

"The Federal Judiciary, Life Tenure, and Self-Government," 4 *Cornell Journal of Law and Public Policy* 500 (1995).

"The Price of 'Political Independence': The Unconstitutional Status of the Legal Services Corporation," 4 *Boston University Public Interest Law Journal* 13 (1994) (with Michael A. Carvin).

"Harry Jaffa's Bad Originalism," 1994 *Public Interest Law Review* 189.

"The Legal Authority of the Department of the Treasury to Promulgate a Regulation Providing for Indexation of Capital Gains," 12 *Virginia Tax Review* 631 (Spring 1993) (with Michael A. Carvin and Vincent J. Colatriano).

"Independent of Heaven Itself: Differing Federalist and Anti-Federalist Perspectives on the Centralizing Tendency of the Federal Judiciary," 16 *Harvard Journal of Law & Public Policy* 119 (Winter 1993).

"A Note on Justice Marshall and *Stare Decisis*," 1992 *The Public Interest Law Review* 95.

"*Wards Cove Packing Co. v. Atonio*: A Step Toward Eliminating Quotas in the American Workplace," 14 *Oklahoma City University Law Review* 265 (Summer 1991).

"Executive Power Over Foreign and Military Policy: Some Remarks on the Founders' Perspective," 16 *Oklahoma City University Law Review* 265 (Summer 1991).

"How Separation of Powers Protects Individual Liberties," 41 *Rutgers Law Review* 789 (Spring 1989).

"A Slow Return To Constitutional Colorblindness," 47 *Legal Times* 27 (May 1, 1989).

"The Constitutionality of Drug Testing," *Federal Bar News & Journal* (October 1988).

"Presidential Powers in the Area of Foreign Affairs," 43 *University of Miami Law Review* 165 (September 1988).

"The Demise of Federalism," 20 *The Urban Lawyer* 239 (Spring 1988).

"*Stare Decisis*: Precedent and Principle in Constitutional Adjudication," 73 *Cornell Law Review* 801 (January 1988).

"The Line-Item Veto: The Framers' Intentions," published in *Revitalizing the Presidential Veto* (National Legal Center for the Public Interest (1988)).

"Comment on Arthur Schlesinger's 'After the Imperial Presidency,'" 47 *Maryland Law Review* 84 (Fall 1988).

"Raoul Berger, Constitutionalist," 4 *Benchmark* 183 (July-October 1987).

"The Collateral Attack Doctrine and the Rules of Intervention: A Judicial Pincer Movement on Due Process," 1987 *University of Chicago Legal forum* 155.

"Limited Government and Individual Liberty: The Ninth Amendment's Forgotten Lesson," 4 *Journal of Law & Politics* 63 (University of Virginia) (Summer 1987).

"Constitutional Adjudication and the Intentions of the Framers," 119 *Federal Rules Decisions* 553 (address before the judicial conference of the U.S. Court of Appeals for the District of Columbia Circuit, May 29, 1987).

"Landmarks of Constitutional Interpretation," 40 *Policy Review* 10 (Spring 1987) (with Nelson Lund).

"Application of Section 504 of the Rehabilitation Act of 1973 to persons with AIDS," published in *Aids and the Law* (Wiley Law Publications 1987).

"Survey of Legal Issues Related to Acquired Immune Deficiency Syndrome (AIDS)," published in *The Medical and Legal Implications of AIDS* (Virginia Bar Association, 1987).

"The First Amendment, Original Intent and The Political Process," 10 *Harvard Journal of Law & Public Policy* 15 (Winter 1987).

"The Tenth Amendment Under Fire," 73 *ABA Journal* 42 (May 1987).

"The Coercive Remedies Paradox," 9 *Harvard Journal of Law and Public Policy* 77 (Winter 1986).

Book Review, 24 *The Atlanta Lawyer* 17 (April-May 1980) (reviewing B. Woodward and S. Armstrong, *The Brethren*).

"The Attorney-Client Privilege in Alabama," 28 *Alabama Law Review* 641 (1977).

CONGRESSIONAL TESTIMONY

- 05/13/09 Testimony before the Subcommittee on Administrative Oversight and the Courts of the Senate Judiciary Committee on "What Went Wrong: Torture and the Office of Legal Counsel in the Bush Administration."
- 09/16/08 Testimony before the Subcommittee on the Constitution of the Senate Judiciary Committee on "Restoring the Rule of Law."
- 06/08/06 Testimony before the Committee on the Budget of the United States House of Representatives on H.R. 4890 - "The Legislative Line Item Veto Act of 2006."
- 05/02/06 Testimony before the Senate Budget Committee on S. 2381 -- "The Legislative Line Item Veto Act of 2006."

- 04/27/06 Testimony before the Subcommittee on the Constitution of the Committee on the Judiciary of the House of Representatives on "The Constitution and the Line Item Veto."
- 02/09/00 Testimony before the Subcommittee on the Constitution of the House Committee on the Judiciary on "The Applicability of the Americans with Disabilities Act (ADA) to Private Internet Sites."
- 11/09/98 Testimony before the Subcommittee on the Constitution of the House Committee of the Judiciary on the Background and History of Impeachment.
- 07/14/98 Testimony before the Committee on Energy and Natural Resources of the U. S. Senate on behalf of the Popular Democratic Party of Puerto Rico Concerning S. 472 and H.R. 856, the "United States-Puerto Rico Political Status Act."
- 02/27/96 Testimony before the Committee on the Judiciary of the U. S. Senate on behalf of The Pharmaceutical Research and Manufacturers of America Concerning S. 1277, The "Prescription Drug Equity Act."
- 03/24/95 Testimony before the Subcommittee on the Constitution, Federalism, and Property Rights of the Senate Committee on the Judiciary on The Tenth Amendment and the "Conference of the States."
- 01/23/95 Testimony before the Joint Economic Committee of the Congress of the United States on H.J. Res. 1, The Balanced Budget Constitutional Amendment.
- 06/15/94 Testimony before the Subcommittee on the Constitution of the Senate Judiciary Committee on "The President's Inherent Constitutional Authority to Exercise a Line-Item Veto."
- 05/25/94 Participant in voting rights roundtable discussion sponsored by Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary.
- 03/18/93 Testimony before the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary on H.R. 174, The "Voting Rights Extension Act of 1993."

- 03/24/92 Testimony before the Subcommittee on Judiciary and Education of the House Committee on the District of Columbia regarding the constitutionality of H.R. 2482, The District of Columbia Statehood Bill.
- 06/19/90 Testimony before the Senate Judiciary Committee on S. 34, The Judicial Prohibition Act, designed to reverse the Supreme Court's decision upholding judicial taxation in *Missouri v. Jenkins*, 495 U.S. 33 (1990).
- 08/01/89 Testimony before the Senate Judiciary Committee on legislation designed to reverse the Supreme Court's "flag burning" decision, *Texas v. Johnson*, 491 U.S. 397 (1989).
- 12/23/87 Testimony before the Senate Intelligence Committee on S. 1721 regarding Congressional Oversight of Intelligence Activities and proposed repeal of Hughes-Ryan Amendment.

SPEECHES AND DEBATES

Mr. Cooper has spoken on a wide variety of constitutional and legal policy topics, including issues relating to constitutional interpretation, federalism, separation of powers, presidential authority, religious liberty, voting rights, school desegregation, and banking regulation. A specific listing of lectures, speeches, debates, and symposia is available on request.

DAVID H. TOMPSON
Cooper & Kirk, PLLC
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Washington, D.C. 20036
(202) 220-9600

EXHIBIT "B"

PROFESSIONAL EXPERIENCE

2000-Present Cooper & Kirk, PLLC, Washington, D.C., Partner
Civil litigation and federal administrative law practice.

2011-Present Adjunct Faculty Member at Georgetown Law Center

1996-1999 Cooper & Kirk, PLLC, Washington, D.C., Associate
Civil litigation and federal administrative law practice.

1995-1996 Shaw Pittman, Washington, D.C., Associate

1994-1995 White & Case, New York, NY, Associate

BAR MEMBERSHIPS

Admitted to practice before the U.S. Supreme Court; U.S. Courts of Appeals for the Second, Third, Fourth, Fifth, Sixth, Ninth, Eleventh, and Federal Circuits; Courts of the State of New York, and the District of Columbia; and the United States Court of Federal Claims.

EDUCATIONAL BACKGROUND

Legal Harvard Law School, Cum Laude (1994)

Prelegal Harvard College, Magna cum laude, Phi Beta Kappa (1991)

PETER A. PATTERSON
Cooper & Kirk, PLLC
1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036
(202) 220-9600

EXHIBIT "C"

PROFESSIONAL EXPERIENCE

- 2009-Present** Associate, Cooper & Kirk, PLLC, Washington, D.C., Cincinnati, Ohio.
Civil litigation practice.
- 2008-2009** Associate Counsel to the President, Office of the White House Counsel,
Washington, D.C. The Office of the White House Counsel advises the
President on legal issues concerning the President and the White House.
- 2007-2008** Deputy Association Counsel, Office of the White House Counsel,
Washington, D.C.
- 2006-2007** Law Clerk to the Honorable Jeffrey S. Sutton, United States Court of
Appeals for the Sixth Circuit, Columbus, Ohio.

BAR MEMBERSHIPS

Admitted to practice before the U.S. Courts of Appeals for the Sixth, Ninth, and
Federal Circuits; Courts of the State of Ohio and the District of Columbia; and the
United States District Court for the Southern District of Ohio.

EDUCATIONAL BACKGROUND

- Legal** J.D., Stanford Law School (2006)
GPA: 3.838/4.300 (top 10% of class)
- Stanford Law Review*
Articles Editor (2005-2006)
Member (2004-2005)
Awards and Honors
Order of the Coif
Law Review Special Service Award
- Prelegal** B.S., Information & Decision Systems, Carnegie Mellon University
(2000)
GPA: 3.96/4.00 (University Honors Graduate)

EXHIBIT "D"

FERNANDO MANUEL BUSTOS

LAW OFFICES OF FERNANDO M. BUSTOS, P.C.

P.O. Box 1980

LUBBOCK, TEXAS 79408-1980

(806) 780-3976

FAX (806) 780-3800

**PROFESSIONAL
EXPERIENCE**

Principal, LAW OFFICES OF FERNANDO M. BUSTOS, P.C., Lubbock, Texas
(February 1, 2010 - present)

Partner, MCCLESKEY, HARRIGER, BRAZILL & GRAF, L.L.P.,
Lubbock, Texas (January 1, 2002 - January 31, 2010)

- Principal practice areas: Federal litigation, including commercial, intellectual property, employment and civil rights litigation
- Appellate counsel for firm

Adjunct Professor of Law, TEXAS TECH UNIVERSITY SCHOOL OF LAW,
Lubbock, Texas (January 2000 - present)

- Teach course on Civil Rights Law, a substantive and procedural class analyzing civil rights actions in federal court

Associate, MCCLESKEY, HARRIGER, BRAZILL & GRAF, L.L.P.,
Lubbock, Texas (September 7, 1999 - December 31, 2001)

Briefing Attorney, THE HONORABLE SAM R. CUMMINGS,
United States District Judge for the Northern District of Texas
Lubbock, Texas (September 1997 - August 1999)

- Initiated and authored first draft of a Northern District Local Rule of Civil Procedure (Local Rule 55.3)
- Advised judge on legal issues
- Drafted orders and opinions for Judge Cummings
- Prepared jury charges and attended trials
- Observed approximately 80-100 trials and hearings in Lubbock, Amarillo, San Angelo, Abilene, and Houston, Texas federal courts

Admitted to Practice in the following States and Courts:

Texas (1997)

Supreme Court of the United States (2001)

United States Court of Appeals for the Fifth Circuit (1999)

United States District Court for the Northern District of Texas (1998)

United States District Court for the Southern District of Texas (1998)

United States District Court for the Eastern District of Texas (1998)

United States District Court for the Western District of Texas (1998)

**PROFESSIONAL
ACTIVITIES**

Chairman, Federal Court Advisory Committee, United States District Court for the Northern District of Texas (2009-2011). **Member** (2006-2008).

Member, Magistrate Judge Merit Selection Panel for the Reappointment of United States Magistrate Judge Nancy M. Koenig (2006)

Director, Lubbock County Bar Association (2004-2007)

Treasurer, Lubbock County Republican Party (2006-2008)

Professional Organization Memberships

Bar Association for the Fifth Federal Circuit
Lubbock County Bar Association

EDUCATION

Doctor of Jurisprudence, TEXAS TECH UNIVERSITY SCHOOL OF LAW
Lubbock, Texas (May 1997)

- Full Scholarship Recipient (Texas Tech University Board of Regents' Scholarship)
- 1996 State Moot Court Team Member

Bachelor of Arts, BRIGHAM YOUNG UNIVERSITY, Kennedy School of International Studies, Provo, Utah (April 1994)

- Major: International Relations
- Minor: Spanish

**FOREIGN
LANGUAGES**

Spanish

PUBLICATIONS

Fifth Circuit Survey - Civil Rights Law, 39 TEX. TECH L. REV. 719 (2007)
Fifth Circuit Survey - Civil Rights Law, 38 TEX. TECH L. REV. 743 (2006)
Fifth Circuit Survey - Civil Rights Law, 33 TEX. TECH. L. REV. 756 (2002)

**SAMPLE
LITIGATION
EXPERIENCE**

(2009 - present)

Receiver in action brought by SEC arising from investor fraud involving over 250 investor victims and approximately \$45 million in losses.
Operate four restaurant chains and a tennis club as part of estate operations.

(2009)

Obtained a \$150 million dollar judgment in state district court in an investment fraud case.

(2007)

Served as hearing officer and final decision-maker for City of Lubbock in two-day evidentiary hearing for dismissed city council chief of staff who claimed First Amendment retaliation and race discrimination claims.

(2007)

Dismissed with prejudice a case of first impression alleging violation of the Fair Labor Standards Act claiming “expeditors” at high-end restaurant could not lawfully participate in a tip pool. The federal district court denied plaintiff’s motion for collective (class) action certification, and opined that plaintiff’s case would fail on the merits. Plaintiff dismissed the lawsuit within two months of filing in exchange for Defendants dropping their claims for attorneys’ fees.

(2006)

Obtained a quarter-million dollar summary judgment for plaintiff in a commercial litigation matter in Lubbock federal district court based on breach of brokerage contract.

(April 2003 - 2009)

Receiver in Lubbock federal district court which included satellite litigation in that court and San Antonio bankruptcy court, plus managing 20 property interests, including a business generating gross revenue of approximately \$4 million per year.

(2002-2006)

Successfully defended a claim under the Americans With Disabilities Act for a large regional employer, obtaining summary judgment in federal district court which was affirmed by the Fifth Circuit Court of Appeals.

(December 2001 - 2005)

Co-litigation counsel in 60 million dollar declaratory judgment action for a multi-national company, in Lubbock, Texas federal court, and in 10 separate state court lawsuits. Argued all hearings in federal and state courts, drafted majority of briefs. Defeated a motion to dismiss the federal declaratory judgment action, and obtained summary judgment in same court on federal preemption and UCC limitation of remedies issues. Assisted in winning case on appeal to the Fifth Circuit, and assisted in preparation for argument at United States Supreme Court.

(March 2000- May 2001)

Served as co-counsel in \$1 billion patent ownership lawsuit in Lubbock, Texas federal court. Defeated a motion to dismiss, and the case was successfully settled for the client.

(January 2000 - 2002)

Represented nationwide retailer in a commercial litigation jury trial in Lubbock County district court, and obtained a favorable verdict and successfully defended the judgment on appeal.

SPEAKING

ENGAGEMENTS

Demystifying the Fifth Circuit and Federal Practice
Bar Association of the Fifth Federal Circuit
September 24, 2010, Lubbock, Texas
1 hour seminar

17th Annual Advanced Evidence and Discovery Course
State Bar of Texas
April 29, 2004, Houston, Texas
“Cookin’ With HB 4”
.5 hour seminar/Paper presented

2001 Suing and Defending Governmental Entities MCLE Course
State Bar of Texas
July 26-27, 2001, San Antonio, Texas
“Making A Federal Case of It: Pleadings In Federal Court”
.5 hour seminar/Paper presented

PUBLIC

APPEARANCES

February 13, 2008
KJTV Fox-34 News, Lubbock, Texas
Televised interview regarding 2008 Republican presidential primary elections

February 6, 2008
KJTV Fox-34 News, Lubbock, Texas
Televised interview regarding 2008 Republican presidential primary

elections

January 4, 2008
KJTV Fox-34 News, Lubbock, Texas
Televised interview regarding 2008 Republican presidential primary

July 14, 2003
KLBB-TV News, Lubbock, Texas
Televised Expert Commentary on Recent United States Supreme Court Ruling Banning Texas’ anti-sodomy law and impact on local federal lawsuit involving Lubbock I.S.D.

June 4, 2001
Fox 34 TV News, Lubbock, Texas
Televised Expert Commentary on Recent United States Supreme Court Title VII Ruling

May 2, 2000
KBCD-TV, Lubbock, Texas
Televised Expert Commentary on Consumer Law Story

**PROFESSIONAL
AWARDS**

2010 Texas Monthly “Texas Rising Star”® Attorney
2009 Texas Monthly “Texas Rising Star”® Attorney
2008 Texas Monthly “Texas Rising Star”® Attorney
2007 Texas Monthly “Texas Rising Star”® Attorney
2005 Texas Monthly “Texas Rising Star”® Attorney
(Among Top 2.5 percent of attorneys in Texas)
Lubbock County Outstanding Young Lawyer 2003-2004

**PUBLISHED
CASES**

Lentz v. Spanky’s Restaurant II, Ltd., d/b/a Double Nickel Steakhouse, 491 F. Supp. 2d 661 (N.D. Tex. 2007) (case of first impression denying plaintiff’s motion for collective (class) action certification and opining no violation of the Fair Labor Standards Act where Plaintiff claimed “expeditors” at a high-end restaurant could not lawfully participate in a tip pool).

Wamco XXVIII, Ltd. V. Casa Grande Cotton Finance Co.; Chickasaw Cotton Oil Co. And Michael D. Hicks, Substitute Trustee, 314 F. Supp. 2d 655 (N.D. Tex. 2004) (case of first impression interpreting Texas Property Code provision related to substitute trustees).

Dow AgroSciences LLC v. Bates, et al., 205 F. Supp. 2d 623 (N.D. Tex. 2002) (order granting summary judgment based on federal preemption and UCC limitation of remedies).

Galindo v. Dean, 69 S.W.3d 623 (Tex. App.— Eastland, 2002) (affirming summary judgment in medical malpractice case on basis of suicide affirmative defense statute).

Williams v. Viswanathan, 65 S.W.3d 685 (Tex. App. — Amarillo, 2001) (brief author) (overruling opposing party’s motion to recuse court of appeals justice).

Williams v. Viswanathan, 64 S.W.3d 624 (Tex. App. — Amarillo, 2001) (brief author) (affirming jury verdict in medical malpractice case dealing with jury misconduct issues).

Nutrition Physiology Corp. v. Enviros Ltd.,
87 F. Supp.2d 648 (N.D. Tex. 2000) (granting motion to dismiss for want of personal jurisdiction in international intellectual property case).

Zane J. Vaughn

3908 105th Street • Lubbock, TX 79423 • (806) 780-3976 work • (806) 368-2422 cell • zanejvaughn@gmail.com

EXHIBIT "E"

Education:

Texas Tech University School of Law, Lubbock, Texas

Doctorate of Jurisprudence, May 2003. Law Review. GPA: 3.11

Active member in good standing—State Bar of Texas & State Bar of New Mexico

Admitted to practice before Supreme Court of Texas; Supreme Court of New Mexico; United States Court of Appeals for the Fifth Circuit; United States District Court for the Northern, Southern, Eastern, and Western Districts of Texas.

North Carolina State University, Raleigh, North Carolina

Master of Science, Major: Agricultural and Extension Education, August 2000. GPA: 3.87

Texas Tech University, Lubbock, Texas

Bachelor of Science, Major: Interdisciplinary Agriculture, May 1998. GPA: 3.47, in major 4.0

Legal Experience:

Law Offices of Fernando M. Bustos, P.C., Lubbock, Texas

Attorney, January 24, 2011 – present. Relevant practice areas include business law, employment law, commercial litigation, complex litigation, receiverships, oil & gas, public officials, and general/federal litigation.

Areas of responsibility involve civil legal practice with an emphasis on defense in federal courts, including direct oversight of pending litigation; taking and defending oral depositions in federal courts; and advising clients orally and in writing regarding litigation positions, strategies, litigation alternatives, settlement, conduct of litigation, and other legal issues. Drafting pleadings, briefs, motions, orders, discovery, and legal memorandum. Other responsibilities also include advising corporate clients with regard to employment law matters, regulations, and the clients' internal policies and procedures. Representation of a SEC court appointed Receiver in a ponzi scheme case entitled *Securities and Exchange Commission v. Benny L. Judah, et al.*

Bergstein Enterprises, Ltd. & Standard Energy Services, L.L.C. Lubbock, Texas

General Counsel, August 24, 2009 – present.

Areas of responsibility involve advising interstate oil & gas servicing/drilling company (including trucking, pulling units, hot oil units, drilling rigs, brine stations, and SWD's) with regard to general business law, identifying potential litigation risks, insurance, employment law, federal and state laws and regulations, safety policies and procedures, collections, drafting contracts, drafting correspondence, reviewing and amending Master Service Agreements, drafting joint operating agreements, reviewing and interpreting leases, handling investor issues, real estate transactions, and general civil litigation practice in state and federal courts. Also responsible for assisting outside counsel, including insurance appointed attorneys, and assisting insurance agent with regard to coverage issues and policy language.

McCleskey, Harriger, Brazill & Graf, L.L.P., Lubbock, Texas

Attorney, August 18, 2008 – August 21, 2009. Relevant practice areas include business law, employment law, commercial litigation, complex litigation, and general litigation.

Areas of responsibility involve civil legal practice with an emphasis on defense in federal courts, including direct oversight of pending litigation; taking and defending oral depositions in federal courts; and advising clients orally and in writing regarding litigation positions, strategies, litigation alternatives, settlement, conduct of litigation, and other legal issues. Drafting pleadings, briefs, motions, orders, discovery, and legal memorandum. Other responsibilities also include advising corporate clients with regard to employment law matters, regulations, and the clients' internal policies and procedures. Representation of a SEC court appointed Receiver in a ponzi scheme case entitled *Securities and Exchange Commission v. Benny L. Judah, et al.* Successful verdicts on two appeals: *Lubbock Feeders, L.P. v. Rabe, et al.*, No. 07-09-0017-CV, 2009 Tex. App. LEXIS 4607 (Tex. App.—Amarillo June 4, 2009); *Crosswhite v. Lexington*, No. 08-10814, 2009 U.S. App. LEXIS 6781 (5th Cir. April 1, 2009).

United States Congress, Washington, D.C.

Counsel - Senator Pete V. Domenici (NM) (Chairman/Ranking Member, Committee on Energy & Natural Resources and Energy & Water Development Appropriations Subcommittee) – June 5, 2006-July 4, 2008.

Top Secret Security Clearance – granted – currently inactive.

Responsibilities include drafting legislation, providing legal counsel, and assisting the Senator with issues related to appropriations (committee member), homeland security and governmental affairs (committee member), national security, budget/finance (committee member), judiciary, taxes, banking, trade, energy (committee member), environment and public works, agriculture, water and related litigation, endangered species and related litigation, and Indian water rights litigation and settlements (committee member).

Legal Experience Continued:

Sanders Baker, P.C., Attorneys & Counselors, Amarillo, Texas

Associate attorney, September 1, 2003 – May 15, 2006. Relevant practice areas include commercial litigation, complex litigation, creditor's rights, and general litigation.

Areas of responsibility involve civil legal practice with an emphasis on defense in state and federal courts; taking and defending oral depositions in state and federal courts; oral argument in state and federal courts; and advising clients orally and in writing regarding litigation strategies, litigation alternatives, settlement, and other legal issues. Drafting briefs, motions, orders, discovery questions and answers, and legal memorandum. Other responsibilities also include advising state government clients with regard to state law, rules, regulations, and the clients' internal policies and procedures. Criminal experience including defense of state misdemeanors and aiding senior partners in court-appointed federal criminal defense cases. Successful verdict on appeal, *Chain-C, Inc. v. Seaboard Farms, Inc.*, No. 07-05-0363-CV, 2007 WL 2403368 (Tex. App.—Amarillo August 23, 2007).

Gibson, Ochsner & Adkins, L.L.P., Attorneys at Law, Amarillo, Texas

Clerkship, Summer 2002 (six weeks)

Associates position offered

Sanders Baker, P.C., Attorneys & Counselors, Amarillo, Texas

Clerkship, Summer 2002 (six weeks)

Publications:

Vaughn, Zane Justus (2000). *Predictors of FFA Program Quality in North Carolina*. Proceedings of the National Agriculture Education Research Conference, 27 (2000).

Vaughn, Zane J. (2000). *Predictors of FFA Program Quality in North Carolina*. The Agricultural Education Magazine, 72 (6), 20-21.

Vaughn, Rosco C. & Vaughn, Zane J. (1999). *State Supervision or State Leadership? A New Paradigm*, The Agricultural Education Magazine, 71 (6), 14-15.

Other Experience:

Discount Tire Co., Lubbock, Texas

Service Technician – July 1997 – August 1998.

Performed automobile service and repair using mechanical skills. Money earned was used to subsidize tuition and other educational expenses.

United States Congress, Washington, D.C.

Intern for Congressman Larry Combest (TX) (Chairman, Permanent Select Committee on Intelligence) – Summer 1996.

Responsibilities included aiding Congressional staff in the development of correspondence, policy, and legislation important to the Chairman, as well as performing other staff office duties.

Honors and Activities:

Lubbock, Texas:

Lubbock Family Guidance & Outreach Center

- *Board of Directors January 1, 2010-present*

Lubbock County Bar Association

- *Member August 18, 2008-present.*

Lubbock County Young Lawyers Association

- *Member August 18, 2008-present*

Texas Young Lawyers Association

- *Member November 6, 2003-present.*

Amarillo, Texas:

Named a 2006 Texas Rising Star by Texas Monthly/Law & Politics (Publishers of Super Lawyers).

Leadership Amarillo & Canyon

- *Participant Fall 2004-Spring 2005.*

Amarillo Area Bar Association

- *Member November 6, 2003-May 15, 2006.*

Amarillo, Texas Continued:

Amarillo Area Young Lawyers Association

- *Member Board of Directors May 1, 2004-August 1, 2005.*
- *New Lawyer Orientation Committee May 1, 2004-August 1, 2005.*
- *Marketing and Website Committee May 1, 2004-August 1, 2005.*
- *Member November 6, 2003-May 15, 2006.*

Texas Tech University School of Law:

Texas Tech University School of Law

- *Regents Scholarship Recipient – 2000-03.*
- *John F. (Buddy) Maner Chancellor's Barrister Fellowship recipient – 2002-03.*
- *John H. Splawn, Jr. Memorial Endowed Scholarship recipient – 2001-02.*

Texas Tech Law Review

- *3L Comment Editor – 2002-03.*
- *2L Staff Member – 2001-02.*
- *Community Service Committee member – 2001-02.*

Phi Delta Phi

- *Vice President – 2002-03.*
- *Inducted Spring – 2001.*

Board of Barristers – Participant in first year client counseling and negotiations. Advanced mock trial witness.

State Bar of Texas

- *Member, Student Division – 2001-03.*

North Carolina State University:

Gamma Sigma Delta – *Inducted 2000.*

Golden Key National Honor Society – *Inducted 1999.*

Omicron Tau Theta – *Inducted 1999.*

Phi Delta Kappa Professional Education Fraternity – *Inducted 1999.*

Student Senate – *Graduate Student Senator 1998-99.*

Texas Tech University:

Alpha Gamma Rho Fraternity:

- *Beta Xi Chapter, President – 1996-97.*
- *New Initiate of the Semester Award Recipient – Spring 1995.*
- *New Brother of the Semester Award Recipient – Fall 1995.*

Interfraternity Council:

- *Alpha Gamma Rho Representative – 1996-98.*

Greek President's Round Table:

- *Alpha Gamma Rho Representative – 1996-97.*

College of Agricultural Sciences and Natural Resources:

- *Collegiate FFA Ag Council Representative – 1995-98.*
- *Dean's Scholarship Recipient – 1995-98.*
- *Collegiate FFA Scholarship Recipient – 1994-98.*
- *College Ambassador for Agriculture – 1994-98.*
- *Collegiate Speaker's Bureau. Aided in college recruitment and public relations. Spoke to audiences upon request.*
- *Agriculture Senior's Scholarship Recipient – 1994-95.*

President's List – 1998.

Dean's List – 1997-98.

National Dean's List – 1997-98.

Who's Who Among Students in American Colleges & Universities – 1997.

Other Honors and Activities:

National Association of Agricultural Educators:

- *National Scholarship Recipient – 1997.*

New Mexico State FFA Association:

- *American FFA Degree Recipient – 1995.*
- *New Mexico State FFA Secretary – 1993-94.*
Duties included visiting numerous FFA chapters, conducting state leadership workshops, and helping organize and preside over the 1994 New Mexico State FFA Convention.
- *Las Cruces FFA Chapter Vice-President – Las Cruces High School, Las Cruces, NM, 1993-94.*